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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,756	02/13/2001	Stevan P. Vasic	7885.5	9702
21999 7590 02/11/2008 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			EXAMINER SHEIKH, ASEFAND M	
			ART UNIT 3627	PAPER NUMBER
			MAIL DATE 02/11/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/782,756

**Applicant(s)**

VASIC, STEVAN P.

**Examiner**

Asfand M. Sheikh

**Art Unit**

3627

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 94-96, 99-108, 110 and 113-118 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 94-96, 99-108, 110 and 113-118 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/10/2007 has been entered.

***Acknowledgements***

The amendment filed on 12/10/2007 has been entered. Claims 94-96, 99-108, 110, 113-118 are pending for examination. Claims 94, 107, and 118 have been amended. The examiner maintains the same grounds of rejection. This action is made non-final.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the

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invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 94, 95, 100-108, 110, 114-116, 118 is rejected under 35 U.S.C. 102(e) as being anticipated by Kravetz et al (hereinafter Kravetz).

As per claim 94, Kravetz teaches receiving an electronic request (Kravetz, see at least, col. 4, lines 38-40) for said payroll access against wages of said employee (Kravetz, see at least, col. 4, lines 5-12), wherein said request is made from said employee to said third party who is not an employer of said employer of said employee (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2), wherein said wages have been by said employee but not yet been paid to said employee by said employer (Kravetz, see at least, col. 4, lines 5-12), and wherein said payroll access is upon demand and does not require a predetermined scheduling of said payroll access (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2); authorizing a distribution of payroll by the third party based upon said electronic request (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2); automatically distributing

said payroll distribution to said employee and deducting an amount corresponding to said payroll distribution from a future wage payment to said employee (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2).

As per claim 95, Kravetz teaches wherein said electronic request is received via an automated teller machine and said payroll advance is forwarded to said automated teller machine (Kravetz, see at least, col. 4, lines 38-40).

As per claim 100, Kravetz teaches wherein said payroll distribution is preformed using payroll access resource (Kravetz, see at least, FIG. 2).

As per claim 101, Kravetz teaches wherein said payroll access resource is one of: a bank account (Kravetz, see at least, FIG. 2), a credit account, a secondary payroll access account, a shared amount, a trust account, a temporary account, a savings account, and a checking account.

As per claim 102, Kravetz teaches wherein the payroll access resource is an account holding party selected from the group consisting of: the employer, a bank (Kravetz, see at

least, FIG. 2), a credit union, and a third-party financial institution.

As per claim 103, Kravetz teaches wherein said authorizing comprises determining an amount of money available through said payroll access (Kravetz, see at least, col. 4, lines 13-27 and lines 38-40).

As per claim 104, Kravetz teaches wherein said determining an amount of money available through said payroll advance is determined before said distribution (Kravetz, see at least, col. 4, lines 13-27 and lines 38-40).

As per claim 105, Kravetz teaches wherein said authorizing comprises charging a transaction fee to said employee (Kravetz, see at least, col. 4, lines 10-11).

As per claim 106, Kravetz teaches distributing comprises charging a transaction fee to said employee (Kravetz, see at least, col. 4, lines 10-11)

As per claims 107, 108, 110, 114, 115 and 118, The Examiner notes that claims the following claims are substantially similar

to those of claims 94-95 and 100-106; and thus are rejected under similar grounds as set forth above.

As per claim 116, the Examiner asserts that it is inherent that loan amount available to a user is at least partially based on a relative risk of non-payment during the application process (Kravetz, see at least, col. 4, lines 63-67 and col. 5, lines 1-11)

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 96 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kravetz et al. (hereinafter Kravetz) as applied to claim 94 above, and in further view of Official Notice.

**As per claim 96**, the Examiner takes Official Notice that communication via the Internet and telephone was old and well known at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Georgetown in view of Kravetz with Internet or telephone communication because it is well known in the art, that Internet and telephone communication offer high speed and reliable communication platforms with easy accessibility.

3. Claims 99 and 113 are rejected under 35 U.S.C. 103(a) as being unpatentable Kravetz et al. (hereinafter Kravetz) as applied to claim 94 above, and in further view of Risafi et al. (hereinafter Risafi).

**As per claims 99 and 113**, the examiner notes that Kravetz silent with respect to wherein said authorizing distribution comprises at least one of (i) a personal identification number, (ii) a biometric identification, (iii) a password, (iv) an electronic key, (v) a signature verification, (vi) a photo identification to authenticate said employee.

Risafi discloses the use of a PIN for an ATM (Risafi, see at least, col. 7, lines 50-55).



The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kravetz to include a PIN as taught by Risafi. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide improved security via the use of a PIN.

4. Claim 117 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kravetz et al. (hereinafter Kravetz) as applied to claim 94 above, and in further view an article by Rusty Cawley, "New Texas Capital product marries payroll, ATMs" (hereinafter Cawley).

**As per claim 117**, the examiner notes that Kravetz is silent with respect to charging for employee for payroll advances before the distributing step.

Cawley teaches the use of charging nothing for first payroll advance (Cawley, see at least, see page 2, lines 14-15) and \$1 to \$2 for each additional advance).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kravetz to include charging for payroll advances as taught by Cawley. One of ordinary skill in the art would have been

motivated to combine the teachings in order to help pay the cost of the service.

***Official Notice***

Since the Applicant did not seasonably traverse the well-known (Official Notice) statement as stated in the previous Office Action, The Examiner notes the object of the well-known (Official Notice) statement is taken to be admitted prior art. See MPEP §2144.03.

***Response to Arguments***

5. Applicant's arguments filed 12/10/2007 have been fully considered but they are not persuasive.

The applicant argues that Kravetz fails to teach "receiving an electronic request for said payroll access against wages of said employee... wherein said wages have been earned by said employee but not yet paid to said employee by said employer". The examiner disagrees.

The examiner notes under the broadest reasonable interpretation Kravetz teaches "receiving an electronic request for said payroll access against wages of said employee... wherein

said wages have been earned by said employee but not yet paid to said employee by said employer" (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2). The examiner notes that automatic payroll deduction will take place as long as the employee is employed by the employee's employer. An electronic request is made via an ATM network for said wage (e.g. withdrawal for money) at any given time. The examiner notes even though the request for withdrawal are directed to a hybrid loan/savings account it is taken from the employee's wages. This is the purpose of the direct deposit for the employee's wages. In essence the hybrid loan/savings is needed as a security basis for the bank in case of legal action. The teachings of Kravetz are for wages being deducted from an employee, based on the income of the wages. The examiner notes this argument is not persuasive.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be

reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit  
3627

Asfand M Sheikh  
Examiner  
Art Unit 3627

/Asfand M Sheikh/  
Examiner, Art Unit 3627

February 1, 2008